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ABSTRACT

This report presents the position of the American Association of University Professors (AAUP) on academic and professional appointments at colleges and universities and the protection of professional appointees who are not faculty members. Faculty members and other professional appointees share similar and overlapping commitments and thus participate in a community of interest relative to such issues as academic freedom, academic governance, affirmative action, academic due process, and collective bargaining. The AAUP calls for faculty involvement in making decisions that may lead to the termination of faculty appointments. The AAUP urges colleges and universities to develop and maintain reasonable and fair employment policies with recognition of the basic rights of academic and professional appointees. Recommendations are made to ensure fair employment policies and safeguards to ensure nondiscrimination and equal opportunity, including the right to participate in collective bargaining for academic and professional appointees. (SLD)

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American Association of University Professors

I. F. Molo Tsky
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College and University Academic and Professional Appointments

A draft of this report, prepared by the Association's Committee on Academic Professionals, was initially published, with an invitation for comments, in the March-April 2002 issue of Academe. In response to comments received, the report has been revised and was adopted by the Council in November 2002 as Association policy.

For many years, professional appointees who are not faculty have shared in the academic work of our colleges and universities, including teaching and research. These colleagues often have advanced training and wide experience and perform critical educational roles with students; in many cases, their academic credentials are commensurate with those of faculty. Yet, although they have shared the professional and academic work, many have not been accorded the rights and protections appropriate to their positions.

Over the last decade or so, changes in the medical and health sciences and in student services in the development of new corporate relationships, and in the use of new technologies have resulted in the creation of more narrowly specialized and defined positions. Many of these new positions, though professional in nature, lack essential protections of professional autonomy. The Association seeks to ensure sound personnel policies for all faculty and professional appointees, for it believes that these colleagues should share in those personnel policies and protections that are essential to the full exercise of academic and professional judgment and expertise in our colleges and universities. Recognition of these basic rights contributes to the college or university mission by enhancing staff performance, providing a better learning environment for students, and contributing to the welfare of the community.

The terms "academic professional" and "professional appointee" are difficult to define, because different types of institutions and different campuses classify positions in a variety of ways. But the term "professional" carries recognizable characteristics, including advanced education and training, accountability to one's peers in a discipline or profession, accepted standards and practices for the profession, and the necessity for the exercise of independent judgment and expertise.

Data from the 1999 Fall Staff Survey of the National Center for Education Statistics (NCES) reveal that faculty constitute little more than a third of university and college personnel. Of the remaining two-thirds, about 30 percent are classified as "professional staff." This category includes "technical and paraprofessional" staff; executive, administrative, or managerial personnel; "other professionals"; and graduate assistants. This statement addresses the rights and protections appropriate to full-time academic and professional staff, other than graduate assistants and senior administrators, as defined by the NCES "professional" category and described by the characteristics named above. Examples of staff appointments that may be considered professional appointments are academic advisers, academic services officers, extension program coordinators, financial aid officers, archivists, career counselors, psychologists, and university press editors. There are also many professional and technical positions in learning or testing centers, research centers, laboratories, medical facilities, allied health centers, computing centers, and other areas.

The Association has afforded membership eligibility to professional appointees in collective bargaining chapters since 1972. Eligibility was not accorded on the basis of a definition or list, but simply on the basis of a "community-of-interest" determination leading to their incorporation in AAUP-affiliated bargaining units by state and federal labor-board decisions. In 1992 the AAUP extended voting

membership to similar academic and professional staff regardless of representation. The inclusion of these colleagues as AAUP members heightens the need for the Association to address the issue of protections for professional appointees.

AAUP policies vary substantially both in foundation and in scope of application. The broadest principles apply to all college or university staff, while others apply more narrowly to professional or academic staff, or indeed only to instructional and research faculty. Although it is not feasible here to sort through the full range of AAUP policies in detail and to anticipate their specific application to particular groups of university staff, it is important to formulate some general understandings and guidelines to protect the professional autonomy and security of all professionals regardless of classification.

Many AAUP policies derive in part from broad civic principles and, therefore, apply not only to faculty but also to any employee or citizen. Employees, generally, may have various rights involving freedom of expression and association, democratic participation, nondiscrimination, and due process that are applicable independent of status. AAUP principles derived from general rights also apply regardless of status. But many AAUP policies arise from more specific principles, and these policies involve more specific application.

Accordingly, it is important to consider the manner in which more specific principles, especially those pertaining to the professional and academic nature of faculty work, shape AAUP policies. Similarly, it is necessary to recognize distinctions in the procedures that apply to faculty and to other professionals, and even among professionals. Even among different groups of faculty, the AAUP already recognizes differences in the applicable policies and standards. What is essential, however, is that AAUP policies promote equity and fairness for all professional appointees.

Faculty members and other professional appointees in the academy share similar and overlapping commitments and frequently work with each other on academic and administrative responsibilities. An increasing number of professionals teach academic classes and advise students on their curricular and career choices. These overlapping responsibilities create a community of interest that extends in some measure to such issues as academic governance, affirmative action, academic due process, and, where applicable, collective bargaining. It may prove useful to explore briefly each of these issues.

Issues

Academic freedom for faculty rests on the academic nature of our profession. The Association's 1915 *General Declaration of Principles* elucidates the specifically professional underpinnings of academic freedom, stating that "the scholar has professional functions to perform in which the appointing authorities have neither competency nor moral right to intervene." The need, expressed here and elsewhere, to protect professional expertise is a vital component of the claim to academic freedom and a component even of the claim to the protections of tenure set forth in the 1940 *Statement of Principles on Academic Freedom and Tenure*, when it calls for "a sufficient degree of economic security to make the profession attractive to men and women of ability." The need to ensure professionalism is shared with others, such as health professionals employed in academic institutions, who, like faculty, need due process protections to safeguard professional independence and sufficient economic security to justify a long-term investment in professional education and development.

Nonetheless, the 1940 *Statement* pertains to academic freedom and tenure. The controversial nature of the academic process of "the free search for truth and its free expression" is the foundation of the academic profession's unique claim to the due process protections afforded by tenure. This was manifest to the authors—the Association of College and Research Libraries, the Association of American

Colleges (now the Association of American Colleges and Universities), and the AAUP—of the 1973 *Joint Statement on Faculty Status of College and University Librarians*. They reasoned:

Neither administrative responsibilities nor professional degrees, titles, or skills, per se, qualify members of the academic community for faculty status. *The function of the librarian as participant in the process of teaching and research is the essential criterion of faculty status. . . .*

Academic freedom, for example, is indispensable to [college and university] librarians, because they are trustees of knowledge with the responsibility of ensuring the availability of information and ideas, no matter how controversial, so that teachers may freely teach and students may freely learn. (Emphasis added.)

Therefore, the joint statement calls for librarians who are involved in teaching and research to have faculty status and the corresponding faculty rights and responsibilities, including tenure. University and college staff who do not share the academic responsibilities entailed in teaching and research are nonetheless entitled to appropriate job security and due process, but not necessarily to the specific guarantees and procedures of tenure. Nor need these professionals experience the unusually long probationary period and demanding evaluation associated with the recognition of tenure.

AAUP policies regarding institutional governance entail similar distinctions. Many management theorists recognize the general value of employee participation in some levels of decision making, and many university managers support consultation of faculty along with other "concerned groups." The AAUP assertion of faculty primacy in matters of academic policy and decisions regarding faculty status is narrower but reaches further. The 1966 *Statement on Government of Colleges and Universities* states: "The primary responsibility of the faculty for such matters is based upon the fact that its judgment is central to general educational policy." Thus the claim of primacy pertains narrowly to academic policy.

Participation in academic governance generally depends on the nature of the appointee's professional training and experience in educational matters. The *Joint Statement on Faculty Status of College and University Librarians* observes that "as members of the academic community, librarians should have latitude in the exercise of their professional judgment within the library [and] a share in shaping policy within the institution." It should be noted that, as in the case of faculty status and tenure, the application to librarians of the AAUP's governance policies reflects their academic as well as their general professional responsibilities. So, too, these recommendations reasonably apply to other essentially academic appointees. All professional appointees are entitled to full participation in nonacademic governance bodies.

The AAUP's standards in the area of affirmative action policy are also grounded in the academic responsibilities of the faculty. The AAUP's commitment to special measures intended to ensure equal opportunity should apply throughout the college or university, in order to enable the institution to carry out this academic mission. When the AAUP advocates in the 1973 statement *Affirmative Action in Higher Education* that an institution should deliberately take account of race, ethnicity, and gender with a view to affirmative efforts to increase the participation of previously underrepresented groups, the recommendation is grounded not in the generic purpose of providing commensurate job opportunities but in the educational value of diversity: "a recognition of the richness which a variety of intellectual perspectives and life experiences can bring to the program." More specifically, the Association's subsequent 1983 statement *Affirmative Action Plans* sought to base its recommendation on the U.S. Supreme Court's recognition of diversity as an educational consideration by reasoning that "in the interests of 'diversity' a faculty might make the *academic* judgment that it might be desirable to have more men or women or more black or more white persons among the faculty or student

body." (Emphasis added.)

The AAUP is broadly committed to the concept of "due process," but the Association's recommended policies involving academic due process are often specific to faculty. For example, notice requirements for reappointment and non-renewal are based on the rhythm of the academic year. Appeal procedures in the event of nonreappointment should distinguish complaints involving alleged discrimination or violation of academic freedom from those alleging inadequate consideration. Although both procedures place the burden of proof on the grievant, those involving academic qualification also call for substantial deference to peer decisions. In the absence of a collective bargaining contract, the AAUP relies on academic peer review rather than external arbitration or adjudication as the primary procedure to resolve complaints or appeals regarding nonrenewal, dismissal, or termination on grounds of program elimination or financial exigency.

Overall, in determining the appropriate protections to be afforded to professionals in the academy, there are at least two questions to be asked in examining a particular professional position: To what extent is the presumption of academic freedom or professional autonomy central to the effective functioning of the person in that position? To what extent does this role require institutional safeguards for its proper exercise? In sum, to the extent that a community of interest with faculty is functionally evident in the tasks undertaken by nonfaculty professionals, the Association recognizes a common ground and a specific obligation to support their concerns.

With a view to safeguarding the quality of academic decision making and in contrast to the possible preferences of many employers, the AAUP calls for faculty involvement in making decisions that may lead to the termination of faculty appointments. Where such procedures are applicable to noninstructional professionals, particular consideration must be given to the delineation of an appropriate peer group. Depending upon the profession, the employee may be involved in a professional organization that provides peer reviews or consultations on the professional judgments of members. Due process procedures can be designed to ensure that a professional staff member is not dismissed or otherwise disciplined for exercising professional expertise or judgment. The AAUP's general commitment to the opportunity for collective bargaining for those who so choose may resolve some of these due process issues. That is, professionals may, where they have the opportunity to engage in collective bargaining and elect to do so, pursue due process directly through the establishment of grievance and arbitration procedures—even where AAUP policy prefers peer review.

Recommendations

The AAUP urges colleges and universities to develop and maintain reasonable and fair employment policies. All employees, regardless of academic or professional status, deserve suitable terms and conditions of employment. Recognition of these basic rights contributes to the college or university mission by enhancing staff performance, providing a better learning environment for students, and contributing to the welfare of the community. For professionals, the AAUP recommends, and will seek to ensure, that universities and colleges provide appropriate terms and conditions of appointment. These include, but are not limited to, the following:

1. The terms and conditions of each appointment should be stated in writing, and a copy of the appointment document and any subsequent revisions should be provided to the appointee.
2. All college and university personnel procedures should include appropriate safeguards to ensure nondiscrimination and equal opportunity; in the case of primarily academic

appointments, universities and colleges are encouraged to pursue especially vigorous efforts to recruit and retain women and minorities in the interests of educational diversity.

3. Salaries for all appointees should be sufficient to support and educate a family in or in reasonable proximity to the college or university community; and salaries of professional appointees should be sufficient to attract men and women of ability to the profession. Compensation should include provision for affordable health care and secure retirement.

4. Professionals, like other staff, should be afforded a healthy and safe working environment.

5. Promotion or other career-advancement opportunities should be available based on professional and academic qualifications, ability, and achievement.

6. Term appointments should include reasonable notice of nonrenewal; after a period of probation, professional appointees should have an opportunity to obtain appropriate security of employment.

7. Professionals should have access to a fair and reasonable grievance procedure and opportunities for review of allegedly improper discipline, nonrenewal, or termination. In the case of continuing appointments, discipline and discharge should entail demonstration of just cause in a due-process hearing. In collegial work environments, due process includes an opportunity for peer participation in the review process.

8. Professionals should have the opportunity to participate in institutional policy formulation and, when appropriate, collegial personnel decisions; those with academic responsibilities should have the commensurate opportunity to participate in the formulation of academic policy. Professionals should have the opportunity to participate in appropriate shared-governance bodies.

9. Professionals should be afforded the necessary sphere of autonomous decision making within which they can exercise their best professional judgment; those with significant academic responsibilities should have academic freedom in the discharge of those responsibilities and in their civic lives. Of course, colleges and universities should recognize the free-expression rights of all of their employees.

10. Professional appointees should have the right to choose to participate in collective bargaining.



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